

**IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION**

VIRGINIA COALITION FOR  
IMMIGRANT RIGHTS; LEAGUE OF  
WOMEN VOTERS OF VIRGINIA;  
LEAGUE OF WOMEN VOTERS OF  
VIRGINIA EDUCATION FUND;  
AFRICAN COMMUNITIES TOGETHER,

*Plaintiffs,*

v.

SUSAN BEALS, in her Official Capacity as  
Virginia Commissioner of Elections; JOHN  
O'BANNON, in his Official Capacity as  
Chairman of the State Board of Elections;  
ROSALYN R. DANCE, in her Official  
Capacity as Vice-Chairman of The State  
Board of Elections; GEORGIA ALVIS-  
LONG, in her Official Capacity as Secretary  
of the State Board of Elections; DONALD  
W. MERRICKS and MATTHEW  
WEINSTEIN, in their Official Capacities as  
Members of the State Board of Elections;  
and JASON MIYARES, in his Official  
Capacity as Virginia Attorney General,

*Defendants.*

Case No. 1:24-cv-1778

Judge Patricia Tolliver Giles

**DEFENDANTS' RESPONSE TO PLAINTIFFS'  
NOTICE OF SUPPLEMENTAL AUTHORITY**

Defendants file this response to Plaintiffs' notice of supplemental authority regarding the Ninth Circuit's recent decision in *Mi Familia Vota v. Fontes*, No. 24-3188, 2025 WL 598127 (9th Cir. Feb. 25, 2025). Although the panel majority's opinion touches on some issues relevant to Defendants' pending motion to dismiss, ECF 121, the statements Plaintiffs highlight are unconvincing. Judge Bumatay's dissent is a better guide for this Court.

The panel majority held that Arizona’s requirement that federal-only voters who vote by mail include proof of citizenship was preempted by Section 6 of the NVRA, but Judge Bumatay’s dissent had the better of it. As he explained, “As a matter of plain text, this provision about voter *registration* doesn’t conflict with state-specific rules for *voting* by mail in federal elections.” *Id.* at \*39. Additionally, Virginia law, unlike the Arizona statute at issue in *Mi Familia Vota*, does not require individuals to provide any additional information after registering, such as proof of citizenship, to vote by mail.

Nor is the panel’s abbreviated analysis of Section 8(b) of the NVRA persuasive. *Mi Familia Vota*, 2025 WL at \*14. It failed even to cite *Husted v. A. Philip Randolph Institute* and instead relied exclusively on *United States v. Florida*, 870 F. Supp. 2d 1346, 1351 (N.D. Fla. 2012), which itself explicitly contemplated that the “database maintained by the United States Department of Homeland Security” (i.e. SAVE) would pass muster under Section 8(b).

Although Plaintiffs’ notice does not reference their Quiet Period Provision argument, Judge Bumatay’s dissent again endorses Defendants’ position. *See Mi Familia Vota*, 2025 WL at \* 47 (Bumatay, J., dissenting in part and concurring in part). As Judge Bumatay explained, Section 8 of the NVRA “progresses from (1) ‘applicant[s]’ to (2) ‘eligible applicant[s]’ to (3) ‘registrant[s]’ to (4) ‘eligible voters’ and ‘ineligible voters.’ Each term or set of terms is a subset of its preceding term. . . . Because of this, foreign citizens are excluded from the terms ‘registrant[s],’ ‘eligible voters’ and ‘ineligible voters.’” *Id.* at \*49 (citing 52 USCA § 20507).

Dated: March 04, 2025

Respectfully submitted,

Charles J. Cooper\*  
Joseph O. Masterman\*  
Bradley L. Larson\*  
COOPER & KIRK, PLLC  
1523 New Hampshire Avenue, N.W.  
Washington, D.C. 20036  
Tel: (202) 220-9600  
Fax: (202) 220-9601  
ccooper@cooperkirk.com

\* Admitted *pro hac vice*

/s/ Erika L. Maley  
Jason S. Miyares  
*Attorney General*  
Thomas J. Sanford (VSB #95965)  
*Deputy Attorney General*  
Erika L. Maley (VSB #97533)  
*Solicitor General*  
Graham K. Bryant (VSB #90592)  
*Deputy Solicitor General*

Office of the Attorney General  
202 North Ninth Street  
Richmond, Virginia 23219  
(804) 786-2071 – Telephone  
(804) 786-1991 – Facsimile  
SolicitorGeneral@oag.state.va.us

*Counsel for Defendants*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 4th day of March, 2025, a true and correct copy of the foregoing was served electronically via CMF/ECF upon all counsel of record.

/s/ Erika L. Maley  
Erika L. Maley (VSB #97533)